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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD T. GREGORY

Appeal 2009-006974
Application 10/749,525
Technology Center 2600

Before KENNETH W. HAIRSTON, THOMAS S. HAHN, and
BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

This is an appeal under 35 U.S.C. §§ 6(b) and 134(a) from the final rejection of claims 1 to 31.

We reverse.

The disclosed invention relates to a system and method for distributed printer processing of print jobs using multiple printers (Spec. 1:4–2:25; Abstract). Appellant discloses and claims a method for distributed processing that includes (i) dividing a job into plural print job segments using a print distribution module and program, (ii) sending the segments to multiple distribution response printers, (iii) processing the segments into print engine-ready data segments, and (iv) assembling the plural print engine-ready data segments at the print distribution module (Abstract; claims 1, 18, 30, 31; Spec. 5:4–6:31).

Claim 1 is representative of the claimed invention, with emphasis added to argued portions, and reads as follows:

1. A method for distributed processing of print jobs using multiple printer processors and centralized printing, comprising the steps of:

dividing a print job into a plurality of print job segments in a print distribution module;

transmitting the plurality of print job segments to one or more distribution responsive printers;

processing the plurality of print job segments into a plurality of print engine-ready data segments using the one or more distribution responsive printers;

assembling the plurality of print engine-ready data segments received from the one or more distribution responsive printers at the print distribution module; and

printing the assembled plurality of print engine-ready data segments at a target printer when the plurality of segments is received from the print distribution module.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Shima	US 2004/0158654 A1	Aug. 12, 2004 (filed Nov. 25, 2003)
Barry	US 7,099,027 B1	Aug. 29, 2006 (filed May 18, 2001)

(i) The Examiner rejected claims 1 to 11, 15 to 25, and 28 to 31 under 35 U.S.C. § 102(e) based upon the teachings of Barry.

(ii) The Examiner rejected claims 12 to 14, 26, and 27 under 35 U.S.C. § 103(a) based upon the teachings of Barry and Shima.

With regard to the anticipation rejection of claims 1 to 11, 15 to 25, and 28 to 31, the Examiner relies upon Barry as disclosing the features recited in these claims of assembling a plurality of print-ready engine data segments at a print distribution module (Ans. 3). Specifically, the Examiner cites column 5, lines 4 to 10, and RIP and PRINT₁ engine 150 of Figure 1b of Barry (*see* Ans. 3), as disclosing the recited step of assembling the plurality of print engine-ready data segments received from the one or more distribution responsive printers. The Examiner also contends that the assembled plurality of print engine-ready data segments are printed at a target printer when they are received from the print distribution module as disclosed in Barry at column 5, lines 14 to 18, and path 164 of Fig. 1b (Ans. 4).

Appellant argues, *inter alia*, (App. Br. 18-25; Reply Br. 4-7) that the applied reference to Barry fails to teach or suggest (i) printing after a merge along path 164, (ii) electronic assembly of data segments (but instead refers to a mechanical collation of physical print outputs, *see* Fig. 1b), and (iii) merging prior to processing and printing the print job (App. Br. 22 (citing

Barry, col. 5, ll. 39-41)). More specifically, Appellant argues (App. Br. 23) that Barry fails to disclose that the page description language (PDL) formatted files are print engine-ready data segments which are formatted after RIPping (raster image processing), as recited in claims 1, 18, 30, and 31.

The pivotal issue is whether, under § 102(e), the Examiner erred in finding Barry explicitly or inherently teaches assembling print engine-ready data segments received from distribution responsive printers at a print distribution module prior to printing?

Although Barry discloses a method (Abstract; Figs. 1a, 1b; col. 5, ll. 1-49) that is similar to Appellant's disclosed invention for distributing printer processing (Spec. 2:17-25; 5:4-25), Barry is silent as to assembling files or segments after RIPping. In other words, Barry is silent as to assembling print engine-ready data segments *after* print processing, as set forth in claims 1, 18, 30, and 31 on appeal. Appellant's argument (Reply Br. 6) that Barry does not separate the RIPping and printing processes is convincing. The Examiner has not sufficiently shown how or why Barry's pre-RIPping PDL file is the same as Appellant's post-RIPping file. In fact, Appellant describes in the Specification (Spec. 5:10-25) that print job files written in printer languages such as page description language (PDL) can be converted by a print processor into print engine-ready data that can be used to print a job without having to perform substantial other processing.

Based on our finding with respect to Barry, we agree with Appellant (Reply Br. 4-6) that Barry fails to disclose operating on post-RIPping files or print engine-ready data segments as recited in claims 1, 18, 30, and 31. Barry's pre-RIPping PDL file does not anticipate Appellant's post-RIPping

files or print engine-ready data segments. The feature of assembling a merged group of data segments in the same print distribution module that divided the data segments in order to output a merged electronic job to a single target printer is simply missing from Barry, and the Examiner has not shown that such a feature is inherent in the operation of Barry. The Examiner has failed to show that Barry's column 5, lines 15 to 18, teaches an electronically merged print job. Instead, we are persuaded by Appellant's assertion (App. Br. 22) that Barry merges physical copies of already printed files/documents, as opposed to merging or assembling electronic versions of data segments or files. Barry plainly describes segmenting a print job file at element 114 and using distributor 118 (Fig. 1a, 1b) to route the print job files to plural RIP engines to provide "parallel conversion processing and printing *prior* to becoming merged together to complete the print job along path 164" (col. 5, ll. 36-41 (emphasis added); Fig. 1b).

Thus, with respect to the independent claims 1, 18, 30, and 31, Barry fails to teach the limitation common to each of these claims of a method of distributed processing of print jobs including the step of assembling a plurality of *print engine-ready data segments* at a print distribution module (after dividing and processing the segments, and then sending them back to the print distribution module). It follows that the Examiner has not established anticipation, because Barry does not disclose each and every limitation of the claimed invention set forth in independent claims 1, 18, 30, and 31. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

The Examiner has not established a *prima facie* case of obviousness of the claimed subject matter set forth in dependent claims 12 to 14, 26, and 27,

since the teachings of Shima fail to cure the noted shortcomings of Barry as set forth above with respect to claims 1 and 18 from which these claims respectively depend. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

In summary, the anticipation rejection of claims 1 to 11, 15 to 25, and 28 to 31 is not sustained because Barry does not teach assembling a plurality of print engine-ready data segments at a print distribution module. The obviousness rejection of claims 12 to 14, 26, and 27 over Barry and Shima is not sustained because the Examiner's articulated reasoning (including the Examiner's factual findings as to Barry) concerning the teachings of Barry and Shima does not support a legal conclusion of obviousness. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

CONCLUSIONS

The Examiner erred in rejecting claims 1 to 11, 15 to 25, and 28 to 31 under 35 U.S.C. §102(e).

The Examiner erred in rejecting claims 12 to 14, 26, and 27 under 35 U.S.C. §103(a).

ORDER

The Examiner's decision rejecting claims 1 to 31 is reversed.

REVERSED

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Application 10/749,525

babc

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